

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SHAUN W.,

Plaintiff,

V.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

Case No. C23-0672 RSM

ORDER REVERSING DENIAL OF BENEFITS AND REMANDING FOR FURTHER PROCEEDINGS

Plaintiff seeks review of the denial of his applications for Supplemental Security Income (SSI) and Disability Insurance Benefits (DIB). Plaintiff contends the ALJ erred by rejecting his symptom testimony and the medical opinion evidence. Dkt. 8. As discussed below, the Court **REVERSES** the Commissioner's final decision and **REMANDS** the matter for further administrative proceedings under sentence four of 42 U.S.C. § 405(g).

BACKGROUND

Plaintiff is 45 years old, has at least a high school education, and has worked as a machinist, awning hanger, bouncer, machine cutter, auto-detailer, tool grinder, and industrial truck operator. Admin. Record (AR) 28. In August and October 2018, Plaintiff applied for benefits, alleging disability as of June 27, 2018. AR 136–37, 151–52, 168, 185 Plaintiff’s applications were denied initially and on reconsideration. AR 149, 164, 181, 198. The ALJ

1 conducted a hearing in August 2020 and issued an unfavorable decision. AR 37–94, 200–20. In
 2 June 2021, the Appeals Council remanded the ALJ’s decision. AR 221–27. In October 2021,
 3 the ALJ held another hearing. AR 95–134. In December 2021, the ALJ issued a second decision
 4 again finding Plaintiff not disabled. AR 12–36.

5 DISCUSSION

6 The Court may reverse the ALJ’s decision only if it is legally erroneous or not supported
 7 by substantial evidence of record. *Ford v. Saul*, 950 F.3d 1141, 1154 (9th Cir. 2020). The Court
 8 must examine the record but cannot reweigh the evidence or substitute its judgment for the
 9 ALJ’s. *Thomas v. Barnhart*, 278 F.3d 947, 954 (9th Cir. 2002). When evidence is susceptible to
 10 more than one interpretation, the Court must uphold the ALJ’s interpretation if rational. *Ford*,
 11 950 F.3d at 1154. Also, the Court “may not reverse an ALJ’s decision on account of an error
 12 that is harmless.” *Molina v. Astrue*, 674 F.3d 1104, 1111 (9th Cir. 2012).

13 1. Plaintiff’s Symptom Testimony

14 Plaintiff testified he is unable to work because of symptoms from post-traumatic stress
 15 disorder (PTSD), which was diagnosed after a carjacking incident in June 2018. See AR 66–67.
 16 He explained he spends 90 to 95 percent of a typical day thinking about the incident and
 17 worrying about the individual who assaulted him, and as a result, he cannot concentrate, finish a
 18 task, or sleep well. See AR 66–67, 78, 82–85, 121–22. Plaintiff also testified to having
 19 depression because of the incident.¹ AR 71–72.

20 Where, as here, an ALJ determines a claimant has presented objective medical evidence

21 ¹ Plaintiff also testified about his physical symptoms. See AR 67–71, 77–78, 85–86. However, in his Opening Brief,
 22 Plaintiff challenged only the ALJ’s evaluation of his mental health symptoms. Dkt. 8 at 2–5. Therefore, the Court does
 23 not address the ALJ’s evaluation of the other symptoms Plaintiff testified to. *Carmickle v. Commissioner, Soc. Sec.*
Admin., 533 F.3d 1155, 1161 n.2 (9th Cir. 2008) (declining to address an ALJ’s finding because the plaintiff “failed to
 argue th[e] issue with any specificity in his briefing”).

1 establishing underlying impairments that could cause the symptoms alleged, and there is no
 2 affirmative evidence of malingering, the ALJ can only discount the claimant's testimony as to
 3 symptom severity by providing "specific, clear, and convincing" reasons supported by
 4 substantial evidence. *Trevizo v. Berryhill*, 871 F.3d 664, 678 (9th Cir. 2017). "The standard
 5 isn't whether our court is convinced, but instead whether the ALJ's rationale is clear enough that
 6 it has the power to convince." *Smartt v. Kijakazi*, 53 F.4th 489, 499 (9th Cir. 2022).

7 The ALJ rejected Plaintiff's testimony because he reported improvement from his
 8 medication. AR 23. "[E]vidence of medical treatment successfully relieving symptoms can
 9 undermine a claim of disability." *Wellington v. Berryhill*, 878 F.3d 867, 876 (9th Cir. 2017).
 10 The ALJ's assessment is not entirely convincing as the record the ALJ cited only shows Plaintiff
 11 had no side effects from medication, not that his symptoms improved. See AR 1323.

12 The ALJ also rejected Plaintiff's testimony because it was inconsistent with objective
 13 medical evidence. AR 24. "When objective medical evidence in the record is *inconsistent* with
 14 the claimant's subjective testimony, the ALJ may indeed weigh it as undercutting such
 15 testimony." *Smartt*, 53 F.4th at 498. However, the mental status examination results cited by the
 16 ALJ do not necessarily undercut Plaintiff's testimony. There were occasions where Plaintiff had
 17 normal affect with mood and anxiety within normal limits, but other records show he was found
 18 depressed, anxious, or euthymic but with racing thoughts. Compare AR 1526, 1543, 1546, 1549
 19 with AR 1402, 1560, 1563. Overall, the records cited do not show the ALJ's finding was
 20 supported by substantial evidence, therefore in rejecting Plaintiff's testimony for its
 21 inconsistency with objective medical evidence, the ALJ erred.

22 The ALJ further rejected Plaintiff's testimony because it was inconsistent with his
 23 reported activities. AR 21. "An ALJ may also consider 'whether the claimant engages in daily

1 activities inconsistent with the alleged symptoms.”” *Smartt*, 53 F.4th at 499 (quoting
 2 *Lingenfelter v. Astrue*, 504 F.3d 1028, 1040 (9th Cir. 2007)). Here, the ALJ pointed to Plaintiff’s
 3 daily activities, including preparing simple meals, caring for his dog, driving, and shopping, as
 4 well as Plaintiff’s ability to go to pool halls. AR 21. The ALJ’s assessment is reasonable.
 5 Plaintiff argues his ability to complete daily activities, such as preparing meals, should not
 6 detract from his credibility. Dkt. 8 at 2 (citing *Vertigan v. Halter*, 260 F.3d 1044, 1050 (9th Cir.
 7 2001) (“the mere fact that a plaintiff has carried on certain daily activities . . . does not in any
 8 way detract from [his] credibility as to [his] overall disability”). But daily activities ““may be
 9 grounds for discrediting the claimant’s testimony to the extent that they contradict claims of a
 10 totally debilitating impairment.”” *Smartt*, 53 F.4th at 499. Plaintiff’s testimony that he is unable
 11 to concentrate or finish tasks because “95%” of a typical day is dedicated to thinking about the
 12 carjacking incident is negated by the record showing he was able to perform household chores
 13 and care for his dog. See AR 84. Plaintiff also argues the ALJ ignored certain details of his
 14 testimony. Dkt. 8 at 3. He points out he testified to going pool halls at the insistence of his
 15 friends and that he spends little time there. *Id.* at 3–4. But the record indicates Plaintiff willingly
 16 went to pool halls himself and engaged in social activities. See AR 1415 (“I beat the number one
 17 pool guy in the state... I was able to focus”, “I went last night [to the pool hall] for my
 18 birthday.”), 1440, 1443 (““I went and played pool three days in a row.”” “Claimant reported
 19 engaging in social activities.”). An ALJ may reject a claimant’s symptom testimony when the
 20 claimant makes inconsistent statements concerning his symptoms. See *Tommasetti v. Astrue*,
 21 533 F.3d 1035, 1039 (9th Cir. 2008). Given Plaintiff’s contradicting statements about his
 22 inability to perform certain activities, the ALJ could reasonably reject Plaintiff’s testimony.

23 Finally, the ALJ rejected Plaintiff’s testimony because of his inconsistent use of

1 medication and therapy attendance. AR 23. “[I]n assessing a claimant’s credibility, the ALJ
 2 may properly rely on unexplained or inadequately explained failure to seek treatment or to
 3 follow a prescribed course of treatment.” *Molina*, 674 F.3d at 1113 (cleaned up). The ALJ’s
 4 assessment is reasonable. Plaintiff argues he should not be chastised for failing to seek treatment
 5 given his mental impairment. Dkt. 8 at 5–6 (citing *Nguyen v. Chater*, 100 F.3d 1462, 1645 (9th
 6 Cir. 1996) (“it is a questionable practice to chastise one with a mental impairment for the
 7 exercise of poor judgment in seeking rehabilitation”)). However, “an ‘unexplained, or
 8 inadequately explained, failure to seek treatment’ may be the basis for an adverse credibility
 9 finding unless one of a ‘number of good reasons for not doing so’ applies.” *Orn v. Astrue*, 495
 10 F.3d 625, 638 (9th Cir. 2007) (quoting *Fair v. Bowen*, 885 F.2d 597, 603 (9th Cir. 1989)); see
 11 also Social Security Ruling 16-3p (“We will not find an individual’s symptoms inconsistent with
 12 the evidence in the record on this basis without considering possible reasons he or she may not
 13 comply with treatment or seek treatment consistent with the degree of his or her complaints.”).
 14 The evidence the ALJ cited shows Plaintiff does not always take his medication and misses his
 15 therapy appointments because he forgets about them, though he attended other medical
 16 appointments. See AR 1410, 1432, 1389, 1398, 1559. That Plaintiff was able to attend other
 17 appointments detracts from his argument that the ALJ did not consider how his impairment
 18 affected his inconsistent treatment. Therefore, in rejecting Plaintiff’s testimony for this reason,
 19 the ALJ did not err.

20 In sum, because the ALJ provided at least one valid reason that is supported by
 21 substantial evidence to reject Plaintiff’s testimony, any erroneous reasons proffered by the ALJ
 22 are rendered harmless. See *Carmickle*, 533 F.3d at 1162 (including an erroneous reason among
 23 other reasons to discount a claimant’s credibility does not negate the validity of the overall

1 credibility determination and is at most harmless error where an ALJ provides other reasons that
2 are supported by substantial evidence).

3 **2. Medical Opinion Evidence**

4 Under the applicable rules, the ALJ must “articulate how [he] considered the medical
5 opinions” and “how persuasive [he] find[s] all of the medical opinions” by considering
6 their supportability, consistency, relationship with the claimant, specialization, and other factors.
7 20 C.F.R. §§ 404.1520c(c), 416.920c(c). The ALJ is specifically required to consider the two
8 most important factors, supportability and consistency. 20 C.F.R. §§ 404.1520c(a), 416.920c(a).
9 The supportability factor requires the ALJ to consider the relevance of the objective medical
10 evidence and the supporting explanations presented by the medical source to justify their
11 opinion. 20 C.F.R. §§ 404.1520c(c)(1), 416.920c(c)(1). The consistency factor involves
12 consideration of how consistent a medical opinion is with the other record evidence. 20 C.F.R.
13 §§ 404.1520c(c)(2); 416.920c(c)(2). Further, under the new regulations, “an ALJ cannot reject
14 an examining or treating doctor’s opinion as unsupported or inconsistent without providing an
15 explanation supported by substantial evidence.” *Woods*, 32 F.4th 785, 792 (9th Cir. 2022).

16 **a. Dr. Gibson**

17 Dr. Gibson opined Plaintiff would not have difficulties with completing simple and
18 repetitive tasks and performing detailed and complex tasks. AR 1249–50. He opined Plaintiff
19 would have difficulties accepting instructions from supervisors, interacting with co-workers and
20 the public, performing work activities on a consistent basis without special or additional
21 instructions, maintaining regular attendance, completing a normal workday/workweek without
22 interruptions from a psychiatric condition, and dealing with the usual stress encountered in the
23 workplace. AR 1250.

1 The ALJ found Dr. Gibson's opinion partially persuasive. AR 26. Plaintiff contends the
 2 ALJ's evaluation of Dr. Gibson's opinion is unclear. Dkt. 8 at 5–6. The Court disagrees, as the
 3 ALJ clearly explained that Dr. Gibson's findings as to what Plaintiff did not have difficulties
 4 with were persuasive, while his findings regarding what Plaintiff did have difficulties were not
 5 persuasive. *See* AR 26.

6 The Court now addresses whether the ALJ's evaluation is supported by substantial
 7 evidence. In rejecting the latter portions of Dr. Gibson's opinion, the ALJ explained the
 8 proposed limitations "appear to be largely based on the claimant's self-reports." AR 26. How a
 9 medical source supports his or her opinion with objective medical evidence or relevant
 10 explanations is a factor the ALJ must consider. 20 C.F.R. §§ 404.1420c(c)(1), 416.920c(c)(1).
 11 However, the Court is not convinced with the ALJ's reasoning as she does not explain how she
 12 made such a finding, and the evaluation indicates Dr. Gibson reviewed Plaintiff's records and
 13 performed a mental status examination before providing his opinion. *See* AR 1247–48.

14 The ALJ also rejected Dr. Gibson's opinion because it was inconsistent with Dr. Andert's
 15 testimony and Dr. Horn's medical opinion. AR 26. How consistent a medical opinion is with
 16 other medical and nonmedical evidence in the record is a factor the ALJ must also consider. 20
 17 C.F.R. §§ 404.1520c(c)(2), 416.920c(c)(2). The ALJ's reasoning here is not persuasive. Dr.
 18 Andert testified that due to Plaintiff's PTSD symptoms, Plaintiff would require oversight and
 19 monitoring by a supervisor. AR 48. Dr. Horn similarly opined Plaintiff is moderately limited in
 20 performing activities within a schedule and completing a normal work day or work week without
 21 interruptions from psychologically based symptoms. AR 146, 161. These findings are not
 22 necessarily inconsistent with Dr. Gibson's assessments. *See* AR 1250.

23 In rejecting Dr. Gibson's opinion, the ALJ also pointed to Plaintiff's activities, including

1 playing pool, engaging in social supports, and giving an interview. AR 26. But the ALJ does
2 not explain how participating in an interview (which Plaintiff reported worsened his condition)
3 and playing pool undermine Dr. Gibson's opinion that Plaintiff would have difficulties in
4 meeting the demands in a workplace with little to no supervision. *See* AR 1434. Thus, in
5 rejecting Dr. Gibson's opinion for its inconsistency, the ALJ erred.

6 **b. Ms. Battelle, MSW**

7 Ms. Battelle opined Plaintiff has moderate to marked limitations in understanding and
8 memory, marked to extreme limitations in sustaining concentration and persistence, moderate to
9 extreme limitations in social interaction, and marked to extreme limitations in adaptation. AR
10 1294–96. Ms. Battelle further opined Plaintiff's symptoms, such as hypervigilance and impaired
11 ability to sustain concentration and memory, would “likely interfere with the requirements of
12 regular and sustained work.” AR 1296.

13 The ALJ found her opinion “partially supported” by her own treatment notes, but still
14 rejected it due to inconsistencies with more recent treatment notes showing normal psychiatric
15 findings and Plaintiff's reports of improvement. AR 26–27. The ALJ's reasoning is lacking.
16 The evidence the ALJ cited includes a mental status examination showing Plaintiff was alert with
17 logical, linear, and coherent thought process. AR 1402–04. However, Ms. Battelle's opinion
18 focused on more than just Plaintiff's thought process, and the cited examinations do not
19 necessarily relate to other portions of Ms. Battelle's opinions, including Plaintiff's limitations in
20 social interaction and adaptation. And while the record cited does show Plaintiff reported “doing
21 a little better with sleeping and going to bed,” it also shows Plaintiff remained hypervigilant. *See*
22 AR 1403. The record cited by the ALJ is more in line with, rather than contradictory to, Ms.
23 Battelle's opinion.

1 The ALJ also rejected Ms. Battelle's opinion because it was "largely based on the
 2 claimant's self-reports." AR 27. Ms. Battelle provided her opinion through a questionnaire
 3 prepared by Plaintiff's counsel, but the ALJ fails to show how she determined that Ms. Battelle's
 4 answers were based on Plaintiff's reports rather than Ms. Battelle's own observations. *See* AR
 5 1293–96.

6 Finally, the ALJ rejected Ms. Battelle's opinion because she saw Plaintiff no more than
 7 three times. AR 26. The length of a medical source's relationship with a claimant is a factor the
 8 ALJ can consider, but not the most important one. *See Woods*, 32 F.4th at 791–92; 20 C.F.R. §§
 9 404.1520c(c)(3)(i), 416.920c(c)(3)(i). Given the reasons the ALJ provided in rejecting Ms.
 10 Battelle's opinions are not provided by substantial evidence, Ms. Battelle's treatment
 11 relationship with Plaintiff alone is not enough to justify the ALJ's evaluation of her opinion.

12 **c. Dr. Ruddell**

13 Dr. Ruddell opined Plaintiff has mild to severe limitations in basic work activities. AR
 14 1337. The ALJ found most of Dr. Ruddell's opinion persuasive, but rejected her proposed
 15 severe limitations with Plaintiff's ability to understand, remember, and persist in tasks by
 16 following detailed instructions, and Plaintiff's ability to learn new tasks. AR 27.

17 The ALJ rejected a portion of Dr. Ruddell's opinion because of its inconsistency with
 18 medical evidence and Plaintiff's reported activities. AR 27. The ALJ's assessment is lacking.
 19 The ALJ pointed to Dr. Andert's testimony, but Dr. Andert opined Plaintiff would be limited to
 20 simple, routine, and repetitive work. AR 48. The ALJ also pointed to Dr. Horn, but he similarly
 21 opined that Plaintiff "retains the ability to maintain attention/concentration to complete *routine*
 22 tasks over a normal 8-hour workday with customary breaks." AR 146 (emphasis added), 161
 23 (emphasis added). Unlike Dr. Ruddell, Dr. Andert did not provide any opinions about Plaintiff's

1 ability to learn new tasks.

2 The ALJ also pointed to Plaintiff's participation in an interview about his assault and
 3 playing pool. AR 27. However, the ALJ does not explain how these activities are necessarily
 4 inconsistent with Dr. Ruddell's opinion that he is severely limited in understanding,
 5 remembering, and persisting in detailed tasks, and learning new tasks. As the ALJ's reasoning is
 6 not supported by substantial evidence, in rejecting Dr. Ruddell's opinion, the ALJ erred.

7 **d. Dr. Andert**

8 During the 2020 hearing, Dr. Ander testified Plaintiff has marked limitations in
 9 adaptation and management under the "paragraph B" criteria of step three. AR 46–47. The ALJ
 10 incorporated Dr. Andert's testimony in his decision at step three and found Plaintiff has a marked
 11 limitation in adaptation and management. AR 19. During the hearing, Dr. Andert also opined
 12 that based on Plaintiff's impairments, he is limited to unskilled work. AR 48. He explained
 13 Plaintiff is limited to simple, routine, and repetitive work, and not capable of fast-paced work.
 14 *Id.* He opined Plaintiff should be limited to occasional contact with the general public, though
 15 Plaintiff's interactions with his coworkers or supervisors do not need to be limited. *Id.* He
 16 further opined that Plaintiff's PTSD symptoms "could involve some off task responses" therefore
 17 he may require oversight, review, and monitoring by a supervisor once per shift for five to ten
 18 minutes to ensure he remains on tasks. *See id.* In determining Plaintiff's residual functional
 19 capacity (RFC), the ALJ found Dr. Andert's opinion partially persuasive, but rejected the portion
 20 regarding Plaintiff's need to have a supervisor monitoring him once per shift for five to ten
 21 minutes because it is "not fully consistent with the record." AR 25–26.

22 Plaintiff contends the ALJ's assessment of Dr. Andert's testimony in general is
 23 contradictory because the ALJ accepted Dr. Andert's testimony regarding Plaintiff's marked

1 limitation in adapting and managing oneself, but rejected the medical source's opinion about
 2 Plaintiff's off-task limitation. Dkt. 8 at 7. Plaintiff also contends the ALJ erred because a
 3 vocational expert testified that a claimant who needs to be continuously checked by a supervisor
 4 to ensure the claimant was not off task would be precluded from employment. *Id.*; AR 130–31.
 5 Therefore, according to Plaintiff, employment would not be possible. *Id.*

6 Plaintiff's argument assumes that an ALJ's step three discussion is the same as an ALJ's
 7 residual function capacity ("RFC") discussion. Though the ALJ did accept Dr. Andert's
 8 testimony regarding Plaintiff's marked limitation with adapting and managing oneself, she did so
 9 during step three, not during the ALJ's RFC assessment. *See* AR 19. Step three and an ALJ's
 10 RFC determination address different aspects of the disability evaluation. At step three, the ALJ
 11 determines whether a claimant's impairment or combination of impairments meets or medically
 12 equals the severity of one of the listed impairments in 20 C.F.R. Part 404, Subpart P, Appendix I.
 13 2 C.F.R. §§ 404.1520(a)(4)(iii); 416.920(a)(4)(iii). At the RFC stage, the ALJ must assess all
 14 relevant evidence to determine the claimant's RFC to perform work-related activities, despite the
 15 limitations imposed by his severe impairment or combination of impairments. 20 CFR §§
 16 404.1520(e), 416.920(e); SSR 96–8p.

17 However, the ALJ's rejection of Dr. Andert's opinion regarding Plaintiff's need to have
 18 supervision for five to ten minutes is not supported by substantial evidence. The records the ALJ
 19 cited include normal psychiatric findings. AR 621–22, 630, 1247, 1249–50, 1257. But they also
 20 include conflicting evaluations showing Plaintiff had "marked," "severe," or "extreme"
 21 limitations in functionalities involving sustaining concentration and persistence. *See* AR 1294–
 22 95, 1337. In Dr. Gibson's evaluation, Plaintiff was found to have concentration, persistence, and
 23 pace "within normal limits," but was ultimately assessed as having difficulties with performing

1 work on a consistent basis without special or additional instructions. *See* AR 1250. Other
2 treatment notes also show Plaintiff was easily distracted, endorsed hallucinations, and had
3 problems with short memory. AR 1323.

4 The ALJ also cited treatment notes showing Plaintiff was “doing well” and endorsing
5 “the efficacy of his medication in controlling flashbacks.” AR 26. But the record shows
6 Plaintiff continued to be hypervigilant. *See* AR 1403. The ALJ also pointed out that at the time
7 Plaintiff was not complaint with therapy, Plaintiff was able to participate in an interview about
8 his assault, playing pool, and engaging with social supports. AR 26. But the ALJ does not
9 explain how Plaintiff’s ability to do so is necessarily inconsistent with Dr. Andert’s opinion
10 about Plaintiff needing supervision to make sure he does not stay off task.

11 In sum, while there was no contradiction between the ALJ’s acceptance of Dr. Andert’s
12 testimony at step three and the ALJ’s rejection of Dr. Andert’s opinion at the RFC stage as
13 Plaintiff argues, the Court finds the ALJ’s rejection of Dr. Andert’s opinion not supported by
14 substantial evidence. However, as further explained in the next section, the ALJ’s erroneous
15 evaluation warrants a remand for further administrative proceedings, rather than an award of
16 benefits.

17 **3. Scope of Remedy**

18 Plaintiff requests the Court remand this case for an immediate award of benefits. Dkt. 8
19 at 8.

20 Remand for an award of benefits “is a rare and prophylactic exception to the well-
21 established ordinary remand rule.” *Leon v. Berryhill*, 880 F.3d 1041, 1044 (9th Cir. 2017). The
22 Ninth Circuit has established a three-step framework for deciding whether a case may be
23 remanded for an award of benefits. *Id.* at 1045. First, the Court must determine whether the ALJ

1 has failed to provide legally sufficient reasons for rejecting evidence. *Id.* (citing *Garrison v.*
 2 *Colvin*, 759 F.3d 995, 1020 (9th Cir. 2014)). Second, the Court must determine “whether the
 3 record has been fully developed, whether there are outstanding issues that must be resolved
 4 before a determination of disability can be made, and whether further administrative proceedings
 5 would be useful.” *Treichler v. Comm’r of Soc. Sec. Admin.*, 775 F.3d 1090, 1101 (9th Cir. 2014)
 6 (internal citations and quotation marks omitted). If the first two steps are satisfied, the Court
 7 must determine whether, “if the improperly discredited evidence were credited as true, the ALJ
 8 would be required to find the claimant disabled on remand.” *Garrison*, 759 F.3d at 1020. “Even
 9 if [the Court] reach[es] the third step and credits [the improperly rejected evidence] as true, it is
 10 within the court’s discretion either to make a direct award of benefits or to remand for further
 11 proceedings.” *Leon*, 880 F.3d at 1045 (citing *Treichler*, 773 F.3d at 1101).

12 Only the first step is met here, as the Court has found the ALJ erred in evaluating the
 13 medical opinion evidence about Plaintiff’s mental impairments. However, the opinions
 14 discussed above remain contradicted by other evidence in the record, including Dr. Horn’s
 15 medical opinions. *See* AR 145–47, 160–62. The ALJ must resolve the contradicting evidence
 16 before the Court can proceed to the third step. *Dominguez v. Colvin*, 808 F.3d 403, 409 (9th Cir.
 17 2015) (“[T]he district court must ‘assess whether there are outstanding issues requiring
 18 resolution *before* considering whether to hold that [the rejected evidence] is credible as a matter
 19 of law.’”) (quoting *Treichler*, 775 F.3d at 1105). Plaintiff also has not analyzed the factors the
 20 Court considers before remanding for an award of benefits, nor shown any rare circumstances.
 21 Accordingly, the Court finds remanding for further proceedings is the more appropriate remedy.

22 On remand, the ALJ shall reevaluate the medical opinion evidence and all relevant steps
 23 of the disability evaluation process, and conduct any necessary proceedings to reevaluate the

¹ || disability determination in light of this order.

CONCLUSION

3 For the foregoing reasons, the Commissioner's final decision is **REVERSED** and this
4 case is **REMANDED** for further administrative proceedings under sentence four of 42 U.S.C. §
5 405(g).

6 DATED this 21st day of November, 2023.


RICARDO S. MARTINEZ
UNITED STATES DISTRICT JUDGE